REMARKS

In the Office Action mailed November 28, 2005, the Examiner withdrew claims 16-19, 23-25, 40-47, 51-53, 78-81, 85-87, 100-104, 112-114, and 127-151 from further consideration; objected to claims 56-58 and 99; rejected claims 60, 62, and 106 under 35 U.S.C. § 112, second paragraph as being indefinite; rejected claims 1-15, 20-21, 26-39, 48-50, 54-59, 61, 63-77, 82, 83, 88-99, 105, 106, 108-111, and 115-126 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2003/0004428 to Pless et al.; rejected claim 107 under 35 U.S.C. § 103(a) as being unpatentable over Pless et al.; rejected claims 22 and 84 under 35 U.S.C. § 103(a) as being unpatentable over Pless et al. in view of U.S. Patent Publication No. 2003/0074032 to Gliner; and rejected claim 62 under 35 U.S.C. § 103(a) as being unpatentable over Pless et al. in view of U.S. Patent No. 6,044,292 to Heyrend et al.

As a preliminary matter, the Examiner indicated that Information Disclosure Statements filed on April 5, 2005 and July 27, 2005 are in compliance with the provisions of 37 C.F.R. § 1.97 and 1.98 and are being considered. The Examiner also indicated that part of the Information Disclosure Statement filed on December 27, 2004 fails to comply with the provisions of 37 C.F.R. § 1.97 and 1.98 and M.P.E.P. § 609 because one of the references is illegible. Accordingly, Applicants file concurrently herewith an IDS under 37 C.F.R. § 1.97(c) containing a copy of the unconsidered reference, with a new form PTO/SB/08 listing the reference.

By this amendment, Applicants have cancelled claims 55-57, 62, and 116-118 without prejudice or disclaimer of the subject matter thereof. Applicants have also amended claims 1, 64, and 115 to more appropriately define Applicants' invention.

Applicants have also amended claims 58, 60, 66, 99, and 119 to correct informalities and typographical errors.

Applicants respectfully traverse the 35 U.S.C. § 112, second paragraph rejection of claims 60 and 106 as being indefinite. Regarding claim 60, the Examiner rejected claim 60 as being directed to a nonelected claim. By this reply, Applicants have amended claim 60 to correct its dependence. Accordingly, the 35 U.S.C. § 112, second paragraph rejection with respect to this claim is moot and should be withdrawn.

Regarding claim 62, as noted above Applicants have cancelled claim 62. Accordingly, the 35 U.S.C. § 112, second paragraph rejection with respect to this claim is moot and should be withdrawn.

Regarding claim 106, the Examiner maintains that claim 106 is indefinite because "it is unclear how a signal to the implant can cause a movement of a person's body." Applicants respectfully disagree. The specification states that the implant may include a stimulating electrode (*see* Specification page 5, paragraph 10). In addition, the specification also states that the system may transmit an energizing signal to the implant to cause movement of a portion of the body by stimulating one or more brain cells coordinating movement of the specific body portion (*see* Specification page 37, paragraph 105). Accordingly, the 35 U.S.C. § 112, second paragraph rejection with respect to claim 106 is improper and should be withdrawn.

Applicants respectfully traverse the 35 U.S.C. § 102(b) rejection of claims 1-15, 20-21, 26-39, 48-50, 54, 58-59, 61, 63-77, 82, 83, 88-99, 105, 106, 108-111, 115, and 119-126 as being anticipated by Pless et al. for at least the reason that Pless et al. fails to disclose every element of each of independent claims 1 and 64. For example,

independent claim 1 has been amended to include substantially the same subject matter as in now-cancelled claims 55-57. Claim 1 now recites a combination of elements including, among other things, a processing unit configured to compare the detected signals with a target signal, wherein the target signal includes one or more previously detected signals indicative of the activity that precedes the neurological event. In the rejection of claims 55-57, the Examiner relies on the disclosure of U.S. Patent No. 6,016,449 to Fischell. In contrast, however, Fischell describes a digital signal processor that includes an automatic gain control (AGC) subroutine that adjusts the amplitude and delay of an EEG threshold level based on EEG signals that are collected when the brain is not experiencing a neurological event (see Fischell, column 15, lines 4-7). This constant threshold level may then be subsequently used to determine if an event has occurred. However, comparing a detected signal with a threshold level that includes constant amplitude and delay is not the same as comparing a detected signal with one or more previously detected signals indicative of an activity that precedes a neurological event. Thus, Fischell does not disclose comparing a detected signal with a target signal, wherein the target signal includes one or more previously detected signals indicative of the activity that precedes the neurological event. Accordingly, the 35 U.S.C. § 102(b) rejection with respect to these claims is improper and should be withdrawn.

Similarly, independent claim 64 has been amended to include substantially the same subject matter as in now-cancelled claims 116-118. Claim 64 now recites a combination including, providing a target signal indicative of the activity that precedes the neurological event, the target signal including one or more previously detected

signals indicative of the activity that precedes the neurological event, and comparing the detected signals with the target signal. For the reasons indicated above, Fischell fails to disclose at least these steps.

Because Pless et al. and Fischell fail to disclose every claim element of either of independent claims 1 and 64, or claims 2-15, 20-21, 26-39, 48-50, 54, 59, 61, 63, 65-77, 82, 83, 88-99, 105, 106, 108-111, 115, and 119-126 that depend therefrom, the 35 U.S.C. § 102(b) rejection with respect to these claims is improper and should be withdrawn.

Applicants respectfully traverse the 35 U.S.C. § 103(a) rejections of claims 22, 62, 84, and 107. Each of these claims depends from one of either claim 1 or claim 64. The secondary applied references do not remedy the deficiencies of Pless et al. or Fischell described above. Accordingly, the 35 U.S.C. § 103(a) rejection of these claims is improper and should be withdrawn.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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